

Massachusetts Water Resources Commission Meeting Minutes for September 9, 1999

Commission Members and Designees in Attendance:

Mark P. Smith	Designee, Executive Office of Environmental Affairs
Marilyn Contreas	Designee, Department of Housing and Community Development
Peter Webber	Commissioner, Department of Environmental Management
Richard Thibedeau	Designee, Department of Environmental Management
Arleen O'Donnell	Designee, Department of Environmental Protection
Lee Corte-Real	Designee, Department of Food and Agriculture
Mark Tisa	Designee, Department of Fisheries, Wildlife & Environmental Law Enforcement
Joe McGinn	Metropolitan District Commission
Bob Zimmerman	Public Member
Frank Veale	Public Member
Gary Clayton	Public Member
Richard Butler	Public Member

Others in Attendance:

Mike Gildesgame	DEM/OWR
Richard Thibedeau	DEM
Michele Drury	DEM/OWR
James P. Heller	EOEA
Nina Danforth	DEM/OWR
Vicki Gartland	DEM/OWR
Linda Marler	DEM/OWR
John Magenheimer	DEM/OWR
Steve Asen	DEM/OWR
Susan Redlich	Wastewater Advisory Committee
Ingeberg Uhler	Town of Weston
Robert Gardner	Wannacomet Water Co.
Leo R. Yuskus	Hadley & Ward
Ian Cooke	NEPRWA
Steve Garabedian	USGS Northborough
Eileen Simonson	WSCAC
Jonathan Yeo	MWRA
Lorraine M. Downey	MWRA Charlestown Navy Yard
Philip Farrington	Town of Stoughton
Doug Cotton	Earth Tech
James Miller	Town of Stoughton
Jack Henderson	CDM
Andy Miller	CDM
Ernie Williams	Canton DPW
William G. Elliott	WSCAC
Anthony Zuen	SEA Consultants Inc.

Agenda Item #1: Executive Director's Report:

Smith noted that agenda item #4 on Wilmington will be postponed until the October meeting. Other items he noted:

- The Commission has 90 days from August 9, 1999 to make a determination of insignificance under the Interbasin Transfer Act on the Hopkinton water project with Ashland.
- The current drought condition is moderate to severe, as noted at a recent meeting at the Massachusetts Emergency Management Agency. The upcoming winter will be crucial for water supplies. If the winter is dry, the next season could be worse than this year. No relief is in sight. The group will meet again in November to look at the winter forecast.

Agenda Item #2: First presentation for Nantucket water needs forecast.

Asen presented the summary of water use and introduced Robert Gardner of the Wannacomet Water Company which supplies about 59% of Nantucket Island. It is a public water supplier with significant summer season population increase. Their new State Forest well will require a Water Management Act permit. It went on line earlier this year. Asen noted the difficulty of developing accurate population information for Nantucket, particularly summer population, as it is averaging about 5 percent per year, a very rapid increase. The current registration is 0.61 mgd for two Wyer Valley wells. Water use has doubled above the registration to about 1.25 mgd. The 2010 estimated water use is 1.68 mgd.

Clayton asked if the population projections are realistic given that it is an island and has generally large lots. The Nantucket Planning Commission felt these were realistic numbers. There were a large number of new hook ups in recent years, about 1400 over the last three years. The population increases also have been significant. The Nantucket sole source aquifer has been studied quite a bit; but a new aquifer model is being commissioned in the near future to understand the geology better and to look at the ground water flows and impacts of pumping. The Commission will vote on the forecast at the next meeting.

Agenda Item #3: Vote on Revised Draft Stoughton Staff Recommendation

Drury reviewed the issues and process of developing the staff recommendation. This is a water supply development project that results in a wastewater interbasin transfer. The proposed Cedar Swamp wellfield cannot meet two of the interbasin transfer act criteria: maintenance of instream flow and cumulative impacts. She asked that the WRC approve the staff recommendation to deny the application. Both Farrington and Smith noted the excellent working relationship established between the Town, its consultants and WRC staff during the process. While Farrington respectfully disagreed with the staff recommendation, he complimented staff for their professionalism in the process. They also both noted that Stoughton is likely to be back before the Commission as they seek the water they need in the future as there appear to be no other in-town sources. Smith added that the Town would likely have to seek a regional solution to their water supply problems, and that the Town should call on the agencies for assistance as needed to move that process along.

V O T E	<p>Zimmerman moved, with a second by Butler that:</p> <ol style="list-style-type: none">1. The WRC approve the Staff Recommendation to deny the Interbasin Transfer Application for the Cedar Swamp Wellfield in Stoughton.2. The decision will include language that states, based on information available to date, it appears that Stoughton will not be able to meet its long-term future water demands using local, in-basin, water supply sources. Therefore, the WRC encourages the Town to seek regional solutions. <p>The motion passed unanimously, with eleven votes in favor and none opposed.</p>
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Agenda Item # 4: Applicability of Wilmington Sewering Under the Interbasin Transfer Act

This agenda item will be postponed until a later date.

Agenda Item #5: Applicability of the Interbasin Transfer Act to the Regis College Sewering Project

Smith prefaced the discussion by saying that this issue, like Wilmington, has generated considerable interest in the practical interpretation of the Act. He also noted that the WSCAC interest in raising the issue does not involve a reopening of the decision on Regis, but rather is aimed at reviewing the basis on which it was made. Drury reviewed the facts in the case:

- Regis College is located in Weston, in the Charles River basin and obtains its water supply from the MWRA (Chicopee and Nashua River basins).
- Regis previously discharged its wastewater to the Charles River basin, via an on-site treatment facility, but Regis is now connecting to the MWRA sewer system, through Waltham.
- WRC Staff reviewed the ENF for this project in August 1998. Staff interpretation was that this project does not facilitate an increase in transfer from the donor basin, because the original donor basins are the Chicopee and Nashua basins, not the Charles River basin. This interpretation was based on the fact that the Act and regulations addresses the original donor basin. It does not address the receiving basin. Staff consulted with legal counsel on this interpretation, and legal counsel concurred with our opinion.
- The interpretation was also based on guidelines developed by the WRC in 1987 for transfers of wastewater. Page 4 of Interbasin Transfer of Wastewater: Overview developed for the WRC by WRC staff, dated June 8, 1987, states that the volume of wastewater includes only water that originated in the donor basin. The Act and regulations focus on impacts to the donor basin. The regulations were written to protect the donor basin and specifically provide for one WRC review of a transfer, not multiple reviews, which would be the case if the Regis College or other similar situations were deemed to be jurisdictional.
- The WRC has used this guideline in other cases, for example, the enlargement of the Quincy Pump Station (see letter to John Fitzgerald, MWRA from Richard Thibedeau, DEM, dated 2 December 1993). This project was designed to increase the wastewater transfer from the City of Quincy to the MWRA wastewater treatment facilities. Quincy is an MWRA water supply customer, with no local sources.

- **Staff recommends that the decision not to take jurisdiction in this and similar cases is correct, based on existing policy interpretations.** Staff believes that the potential local impacts that could occur from changing the location of the discharge of an approved or grandfathered interbasin transfer should be discussed in the broader context of the WRC's stressed basin initiative, as well as reviewed under the MEPA process or sewer connection permitting process, if appropriate.

Simonson and others pointed out that the impact of the connection is to increase the transport of water out of the Charles basin, reducing the amount that would recharge the Charles, and therefore, the connection to MWRA by Regis College constitutes an interbasin transfer with environmental impacts. Drury and others disagreed.

Agenda Item #6: Canton's Compliance With Conditions of the Interbasin Transfer Approval

Drury reviewed the conditions of the approval of Canton's Interbasin Transfer for the development of Well #9. Staff generally agrees with Canton's approach and recommends that the WRC consider compliance with Criterion #2 to be met, thereby allowing Canton to proceed with the installation of Well #9, after Canton files an ENF with MEPA concerning its sewerage plans; the Secretary of Environmental Affairs issues a certificate on the ENF requiring an EIR; The Scope for the CWMP/EIR is approved by DEP; and Canton demonstrates a commitment to complete the CWMP/EIR process. The recommendation was made to amend the staff recommendation for the 2:1 offset provision with a time line or schedule, clarifying that it is not a *pro rata* item.

Tony Zuena commented that the Town has found an acceptable compromise or has complied with all the conditions of the Transfer approval including putting a time frame for the 2:1 offset. The Town supports and is in full agreement with the staff summary and looks forward to a positive vote in November.

Ian Cooke commented that there are many fewer areas of disagreement with the Town than in the past, but still had concerns in a regional context. Particularly, he was concerned about the incremental impacts of the well to the Fowl Meadow of up to 15% reduction in streamflow. The 15%, he stated, already is in addition to other actions on the river. Cooke said that base flow in the Neponset has dropped by 50% since the 1930's. He questioned how the Town's program goals of I/I removal are achieved and measured, given that finding a trend in a variable system is difficult and that I/I programs don't always get out what is expected because new I/I enters the system as one part is fixed. Changing from a streamflow basis, as the WRC originally intended, to this engineering basis guarantees that the goal will not be met. Therefore, the Town should add a multiplier to the goal to compensate for this problem or establish an enforceable "look-back" period on the MWRA estimated flows.

Cooke also commented on the intent to regulate the well on the basis of a new Green Lodge Street gage. The USGS established a rating curve and took some daily flow measurements, which were higher than the estimates. Based on this, he stated the Green Lodge measurements will not protect the entire river and that Canton will be able to pump on more days than previously expected. He also commented on the sewer extensions in the Town. The WRC

decision is vague on the infill and expansion of the system to meet the 2:1 offset. The entire transfer, including both, must be mitigated. It is unclear, he concluded, how the goal will be met with simply a volume in the extension permit. There must be a clarification of when mitigation is completed and how attainment will be measured.

Mark Smith asked if there is a precedent for using a multiplier and what kind of documentation would be needed. Also, it is important to clarify from the original decision what changes have occurred in the current data. Rich asked how we could come up with a multiplier factor; what the basis would be and how to measure it.

Zuena said the Town will take a hard line on additional concessions; that they have acted in good faith and would not likely be open to new rules being imposed now.

Smith stated that the task at hand is to fulfill the original intent and letter of the original decision; and that he hoped to reach consensus. A decision would be voted on at the November 4th meeting.

Agenda Item #7: Current Hydrologic Conditions

Marler reported that most of the state had seen a significant increase in ground water levels, although the Cape and Nantucket got little rain from Hurricane Floyd. The precipitation deficit recovered by 15 inches in some areas of the CT valley.

Minutes approved 7/13/00